

**REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application. Applicant would also like to thank the Examiner for his time.

By the present amendment, claims 1-3, 5, 10, 12, 16-19, and 23-25 are amended, claims 13 and 20-22 are canceled, and claims 26-27 are new. As such, it is now respectfully submitted that each of the claims 1-12, 14-19, and 23-27 are in condition for allowance.

It is respectfully requested that the objection of the drawings be withdrawn. The objection to the drawings was in regards to limitations found in claims 13 and 20. These claims are now canceled. Thus, the objection is no longer applicable and should be withdrawn.

It is respectfully requested that the objection to the specification be withdrawn. The claims have been amended to recite “approximately 90° to 120°,” as opposed to reciting “90E to 120E.” The Preliminary Amendment dated November 13, 2007 included a typographical error of reciting “90E to 120E,” as opposed to “90° to 120°.” The specification is being amended in paragraph 0049 to further recite that “Thus, the lattices of the lattice-work situated adjacent to the open side are inclined relative to the lattice of the lattice-work situated opposite of this open side by an angle of approximately 90° to 135°, preferably 95° to 120°, as shown in FIGS. 1-2 and FIGS. 6-8.” Accordingly, for at least these reasons, withdrawal of this objection is respectfully requested.

It is respectfully requested that the rejection of claims 1-25 under 35 U.S.C. 112 be withdrawn. First, the claims have been amended to properly refer to degrees, rather than 90E to 120E. In regards to the recitation of the “lattices,” the claims have been amended to clarify that the lattices are part of the lattice-work.

With regards to claims 4 and 5, these claims are now amended to overcome the objections. Claims 21 and 22 are canceled, thus the rejections of these claims are no longer applicable.

Claim 12 is now amended to depend from claim 2. Claim 13 is canceled, thus the rejection of this claim is no longer applicable. Withdrawal of the rejection of claim 15 is respectfully requested seeing as claims 1 and 2 are not indefinite. Claim 16 is amended to properly recite “according to the method of one of Claims 1-2.” Accordingly, for at least these reasons, withdrawal of the rejections under 35 U.S.C. 112 is respectfully requested.

It is respectfully requested that the rejection of claims 17-19, 21-23, and 25 under 35 U.S.C. 102(b) as being anticipated by Breuning (WO 94/29541) be withdrawn. Claim 17 recites “a plurality of adjacently arranged displacers comprising plastic balls (240) or plastic shells (440), for being pressed into a semi-set concrete layer.” In contrast, the Breuning reference is directed to an in situ concreted formwork (See pages 2, line 13 through page 3, line 26), which is not suitable for being pressed into a further layer of concrete. Furthermore, independent claim 17, from which each of these claims depend, recites that the displacers of the module are being pressed into a semi-set layer, as will be further described below. In addition, claim 17 is also amended to recite that the “open lattice constructions that respectively feature an essentially triangular rod construction on the sides, and the lateral rod constructions on one side are offset relative to the other side by approximately half the width of a triangle.” This also does not appear to be shown in Breuning ‘541. In contrast, Breuning ‘541 appears to show structure that is not offset and also does not show or suggest any arrangement for the offset construction on multiple sides of the hollow bodies 23. Claims 18-19, 21-23 and 25 depend from claim 17 and are allowable for at least the same reasons. Thus, for at least the reasons provided, Breuning does not disclose each and every element of the claims and withdrawal of this rejection is respectfully requested.

It is respectfully requested that the rejection of claims 1-5 under U.S.C. 103(a) as being unpatentable over Zimmerman (US 5,055,252) in view of Breuning be withdrawn. Claim 1 requires, among other limitations, a first layer of concrete in a formwork, a reinforcing mesh on the first layer, and a second layer of concrete on top of the reinforcing mesh, where displacers are pressed in the semi-set second layer. Zimmerman describes providing a first layer (insulation sheet 26), a next layer (wire mesh 28), and a final layer (concrete layer 30). See Col. 3, lines 28-52. Zimmerman describes that when “concrete 30 hardens it not only covers wire mesh 28 and insulation sheet 26, but it also encapsulates reinforcing rods 24 and 29 and their interconnected junctions.” Col. 3, lines 47-50. This structure still does not disclose or suggest a first layer of concrete in a formwork, a reinforcing mesh on the first layer, and a second layer of concrete on top of the reinforcing mesh, where displacers are pressed in the semi-set second layer as recited in claim 1. On page 10 of the Office action, it states that it would be obvious to “fill a second layer of concrete mass into the formwork on top of the first layer and the reinforcing mesh and allowing the second layer to set” as this “would render a duplication of parts.” Applicant

respectfully disagrees with this assertion. It is unclear how one skilled in the art could add a second layer to the structure of Zimmerman shown in FIG. 1 as it is contrary to the teachings of Zimmerman. Any additional layers would be outside of the formwork enclosed by the framing members 16 in FIG. 1. Accordingly, the rejection should be withdrawn. Even if it were obvious for Zimmerman to include this feature, other limitations are not disclosed or suggested by either Zimmerman or Breuning. In the Office action on page 11, it is stated that while Zimmerman does not disclose limitations including pressing modules into the semi-set second layer from claim 1, Breuning is being cited for disclosing these limitations. However, applicant respectfully submits that Breuning does not disclose the limitation of pressing modules into the semi-set second layer. For example, FIG. 8 and FIG. 9 of Breuning show the sheet panels 11 described with regards to FIG. 1. Concrete appears to be poured on top of these sheet panels 11, as shown in FIG. 2 and FIG. 4. However, the concrete is poured in with the hollow bodies already in place. This is contradictory to the claim which recites “pressing modules comprising a plurality of adjacently arranged displacers... into the semi-set second layer.” Accordingly, even if Breuning could be combined with Zimmerman, neither Breuning nor Zimmerman discloses each and every element of the claims for at least the reasons provided. Claim 2 is patentable for at least the same reasons as claim 1, as claim 2 recites pressing modules into the semi-set layer. Accordingly, for at least these reasons, withdrawal of this rejection is respectfully requested.

Claims 3-5, 6-10, 14, and 24 are each dependent on either claim 1 or claim 2. These dependent claims are patentable for at least the same reasons as claim 1 and claim 2. Accordingly, for at least these reasons, withdrawal of this rejection is respectfully requested.

In regards to claims 11-13, it is respectfully requested that the rejection be withdrawn. On page 13 of the Office action, it states that “when the module of Breuning ‘541 is pressed into the concrete layer of Zimmerman, it would be arranged in the assembly jig of Zimmerman such that the module would be between upright wiremesh and reinforcing rods.” In FIG. 1 of Zimmerman, this location is between item 28 (the mesh) and items 29 (the rods). Zimmerman describes that the mesh 28 is laid atop the surface of an insulation sheet 26 which is laid across the top of the stud molds 22 which contain the rods 29. Col. 3, lines 28-38. It does not appear that the modification stated is even possible based on FIG. 1 of Zimmerman and the structure of Breuning. The proposed modification would result in placing Breuning in between the layers, contrary to the teachings of Zimmerman. Moreover,

even if the combination could be made, it is unclear how the combination would still include the limitations directed to pressing modules into a semi-set second layer, as discussed above with regards to claim 1. On page 14, the Office action states that a motivation for pressing modules into a semi-set second layer is that “one may want a larger or multilayer concrete mass to be formed in either greater width or height.” Applicant respectfully disagrees with this assertion. If one skilled in the art desired different dimensions, they would change the dimensions of various objects as desired. The motivation suggested on page 14 of the Office action appears to be based on impermissible hindsight, which is not allowed. See MPEP 2145. Accordingly, even if Breuning could be combined with Zimmerman, neither Breuning nor Zimmerman discloses each and every element of the independent claims for at least the reasons already provided.

On page 14 of the Office action, claim 20 was rejected in view of Breuning ‘747 (5,396,747). Claim 20 is now canceled. Accordingly, this rejection is no longer applicable.

It is respectfully requested that the rejection of claim 16 as being unpatentable under U.S.C. 103(a) as being unpatentable over Zimmerman (US 5,055,252) be withdrawn. Claim 16 is now amended to properly claim benefit from claims 1 and 2. Accordingly, Zimmerman does not teach or suggest each and every element of claims 1 and 2. Thus, for at least these reasons, withdrawal of this rejection is respectfully requested.

Applicant would also like to direct attention to new claims 26 and 27. New claims 26 and 27 depend from claim 1 and are patentable for at least the same reasons as claim 1.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Respectfully submitted,  
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